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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,812	11/16/2001	John J. Kilper	ALVY 7552US	8522
1688	7590	07/12/2004		
POLSTER, LIEDER, WOODRUFF & LUCCHESI 12412 POWERS COURT DRIVE SUITE 200 ST. LOUIS, MO 63131-3615			EXAMINER RIDLEY, RICHARD	
			ART UNIT	PAPER NUMBER

3651

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/993,812

Applicant(s)

KILPER ET AL.

Examiner

Richard Ridley

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-14 is/are allowed.
- 6) ☒ Claim(s) 1 and 10 is/are rejected.
- 7) ☒ Claim(s) 2-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Request for Continued Examination*

1. The request filed on 4-19-04 for Continued Examination is acceptable and a RCE has been established. An action on the RCE follows.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Schiesser et al.

‘225. Schiesser discloses a similar accumulation device comprising a(n):

➤ First plurality of zones (fig. 16A), the zones capable of being separately driven (C7/L65-

C8/L1), each zone comprising a(n):

- Sensor (42 or 12) for sensing the presence of a carton within the zone;
- Actuator that allows movement of the sensor between an up position (fig. 17 & 18) wherein the sensor is capable of contacting the cartons and a down position (fig. 19) wherein the sensor is not capable of contacting the cartons;

wherein the actuator of at least one of the zones (**C**) comprises means (7, 8) for providing a signal to an adjacent, upstream zone (**B**) to begin conveying cartons only when the sensor with the at least one zone senses the absence of a carton with that zone when the conveyor switches

Art Unit: 3651

from an accumulation mode to a transportation mode [C10/L22-55; when a carton is conveyed in Zone C the actuator in zone C is depressed and sends a signal to zone B (upstream) to stop and accumulate cartons. see C10/L22-29. Alternatively, when there is no carton in zone C the actuator is not depress (the absence of a carton is thus detected) and a signal is sent to upstream zone B to convey/transport].

Regarding claims 10 Schiesser further discloses the steps of:

- Holding the sensor in a down position when the sensor is not capable of contacting a carton at least 1) when the conveyor is not accumulating cartons (fig. 19 shows a conveyor mode and which is not an accumulation mode) and 2) when the conveyor is accumulating cartons and an adjacent, downstream sensor does not sense the presence of a carton with the downstream, adjacent zone (C10/L45-51; C1/L54-55);
- Holding the sensor in an up position where the sensor is capable of contacting a carton when the conveyor is accumulating cartons and an adjacent, downstream sensor senses the presence of a carton within the downstream, adjacent zone (C10/L7-11; fig. 17 & 18).
- Switching a zone from a accumulation mode to a transportation mode only when an adjacent, downstream zone does not sense the presence of a carton within the adjacent, downstream zone [C1/L40-44; C10/L29-40; C10/L22-55; when a carton is conveyed in Zone C the actuator in zone C is depressed and sends a signal to zone B (upstream) to stop and accumulate cartons. see C10/L22-29. Alternatively, when there is no carton in zone C the actuator is not depress (the absence of a carton is thus detected) and a signal is sent to upstream zone B to convey/transport].

Art Unit: 3651

***Allowable Subject Matter***

3. Claims 12-14 are allowed over the prior art of record.
4. Claims 2-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments filed 4-19-04 have been fully considered but they are not persuasive.

The applicant argues that the amendment puts the claims in condition for allowance in that Schiesser '225 does not disclose "...the actuator of at least one of the zones comprises means for providing a signal to an adjacent, upstream zone to begin conveying cartons only when the sensor with the at least one zone senses the absence of a carton with that zone when the conveyor switches from an accumulation mode to a transportation mode.

The examiner notes that Schiesser '225 discloses actuator of at least one of the zones (C) comprises means (7, 8) for providing a signal to an adjacent, upstream zone (B) to begin conveying cartons only when the sensor with the at least one zone senses the absence of a carton with that zone when the conveyor switches from an accumulation mode to a transportation mode [C10/L22-55; when a carton is conveyed in Zone C the actuator in zone C is depressed and sends a signal to zone B (upstream) to stop and accumulate cartons. see C10/L22-29. Alternatively, when there is no carton in zone C the actuator is not depress (the absence of a carton is thus detected) and a signal is sent to upstream zone B to convey/transport].

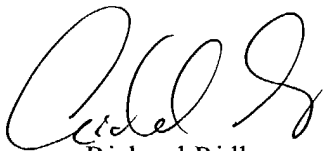
Art Unit: 3651

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Ridley whose telephone number is (703) 306-5910. The examiner can normally be reached on Mon-Thur 7:00 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Ridley  
7-8-04

Richard Ridley  
Primary Examiner  
Art Unit 3651